



# COMMODITY FUTURES TRADING COMMISSION

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## Division of Enforcement

April 12, 2021

## **LETTER MOTION BY ECF AND ELECTRONIC MAIL**

Hon. John G. Koeltl  
United States District Judge  
United States District Court  
Southern District of New York  
500 Pearl Street, Courtroom 14A  
New York, NY 10007-1312  
[koeltl@nysdchambers.nysd.uscourts.gov](mailto:koeltl@nysdchambers.nysd.uscourts.gov)

The April 22, 2021 conference is canceled.  
The plaintiff should present an Order to Show Cause for a Default Judgment by April 23, 2021.

SO ORDERED.

New York, New York /s/ John G. Koeltl  
April 13, 2021 John G. Koeltl, U.S.D.J.

**Re:** *Commodity Futures Trading Commission v. Jeremy Spence*,  
Civil Action 1:21-cv-0699(JGK)

Dear Judge Koeltl:

I am a Senior Trial Attorney in the Division of Enforcement (the “Division”) of the Commodity Futures Trading Commission (the “Commission”) and represent Plaintiff in the captioned matter. I write respectfully pursuant to Sections I.E, I.F, and II.C of this Court’s Individual Rules of Practice in Civil Cases (“Individual Rules”) and Local Rules 5.2(b) and 7.1, to request an adjournment or cancellation of the initial pretrial conference currently set for April 22, 2021, at 12:30 p.m. (“Pretrial Conference”), given Defendant’s failure to serve an answer, otherwise move, or appear in this matter.

## ***Request to Adjourn or Cancel April 22 Conference***

The Commission respectfully seeks either an adjournment or cancellation of the April 22 Pretrial Conference because Defendant failed to serve an Answer pursuant to Fed. R. Civ. P. 12(a) or otherwise move with respect to the complaint, and his default has been entered. ECF No. 12. The Commission expects to seek an Order to Show Cause for a default judgment and to file supporting papers (“Default Judgment”), pursuant to Section VII.A.2 and VII.A.3 of the Court’s Individual Rules. The Commission has not previously requested an adjournment.

### *Defendant's Default*

On January 28, 2021, a process server effected service on Defendant personally in Bristol, Rhode Island, including service of a copy of the Summons and Complaint, the Court's

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Individual Rules and Addendum, the Electronic Case Filing Rules and Instructions with Addendum, and the Addendum to Electronic Case Filing Rules and Instructions dated April 1, 2020 – Temporary Acceptance of Pro Se Filings by Email. *See* ECF No. 7. Pursuant to Fed. R. Civ. P. 12, Defendant was required to file an answer within 21 days of service of the Summons and Complaint, i.e., by February 18, 2021. Defendant's deadline to answer was not stayed, as Defendant has not filed any motion to dismiss or any other motion with respect to the Complaint. No counsel has appeared for Defendant in this matter, nor has Defendant appeared *pro se*. Plaintiff understands that Defendant has been charged in a separate criminal proceeding, *United States v. Jeremy Spence*, 21-CR-0116 (S.D.N.Y.) (LAK), arising from certain of the same facts as this matter, and is represented by a Federal Defender in that matter.

Accordingly, Plaintiff respectfully requests that the Pretrial Conference be adjourned or cancelled, as Plaintiff expects to move for a Default Judgment in the coming weeks.

Respectfully submitted,

s/Gates S. Hurand

cc:     Jeremy Spence (by mail to address at which service was previously effected)